

APPEAL NO. 040452  
FILED APRIL 13, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 3, 2004. The hearing officer determined that the appellant's (claimant) compensable injury of \_\_\_\_\_, does not extend to and include an injury to the low back. In his appeal, the claimant essentially argues that the hearing officer's extent-of-injury determination is against the great weight and preponderance of the evidence. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of \_\_\_\_\_, does not extend to and include an injury to the low back. The claimant had the burden of proof on that issue and it presented a question of fact for the hearing officer. There was conflicting evidence presented on the disputed issue. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As such, the hearing officer was required to resolve the conflicts and inconsistencies in the evidence and to determine what facts the evidence established. In this instance, the hearing officer simply was not persuaded that the claimant sustained his burden of proving that the compensable injury of \_\_\_\_\_, included a low back injury. The hearing officer was acting within his province as the fact finder in so finding. Nothing in our review of the record reveals that the challenged determination is so contrary to the overwhelming weight of the evidence as to be clearly wrong or unjust. Thus, no sound basis exists for us to disturb the hearing officer's extent-of-injury determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL RAY OLIVER  
221 WEST 6TH STREET, SUITE 300  
AUSTIN, TEXAS 78701-3403.**

---

Elaine M. Chaney  
Appeals Judge

CONCUR:

---

Chris Cowan  
Appeals Judge

---

Veronica L. Ruberto  
Appeals Judge